# GOVERNMENT OF INDIA
# INFORMATION AND BROADCASTING
# LOK SABHA

STARRED QUESTION NO:95
ANSWERED ON:23.02.2006
ES FOR NEWS CHANNELS UPLINKING GUIDELINES FOR NEWS CHANNELS
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**Will the Minister of INFORMATION AND BROADCASTING be pleased to state:**

(a) whether the Government has formulated new uplinking guidelines for news channels;

(b) if so, the details thereof; and

(c) the steps taken by the Government for proper implementation of the guidelines?

## Answer

THE MINISTER OF INFORMATION AND BROADCASTING AND PARLIAMENTARY AFFAIRS ( SHRI P.R. DASMUNSI )

(a) to (c) : A Statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a) to (c) OF LOK SABHA STARRED QUESTION NO.95 FOR ANSWER ON 23.2.2006

(a) : No, Sir. Uplinking guidelines were issued from time to time on different aspects. The existing uplinking guidelines have been partially revised and all the existing guidelines have been consolidated into one consolidated guidelines and issued on 2.12.2005.

(b) & (c ) : The consolidated uplinking guidelines have been notified on 2.12.2005 (Annexure-I). which are also available on the Ministry's website (http:// www.mib.nic.in) and since then all new applications are being received in the prescribed proforma and processed under these guidelines only.

ANNEXURE-I

ANNEXURE-I AS REFERRED TO IN REPLY TO PARTS (b)&(c) OF LOK SABHA STARRED QUESTION NO.95 FOR ANSWER ON 23.2.2006

File No: 1501/2/2002-TV(I)(Pt.)

GUIDELINES FOR UPLINKING FROM INDIA

New Delhi Dated: December 2, 2005. PREAMBLE

Ministry of Information and Broadcasting, Government of India notified the "Guidelines for uplinking from India" in July 2000. This was followed by "Guidelines for Uplinking of News and Current Affairs TV Channels from India" in March 2003, which were amended in August 2003, "Guidelines for use of SNG/DSNGs" in May 2003 and addendum dated 1.4.2005 to the uplinking guidelines. The Government has, on 20th October 2005 further amended these guidelines. It has now been decided that all these guidelines should be consolidated into one set of guidelines and notified. Accordingly, in supercession of all previous guidelines, the Government hereby notifies the following consolidated uplinking guidelines. These shall come into effect from today the 2nd December 2005 and would be applicable to existing channels as well.

GENERAL

The applicant seeking permission to set up an uplinking hub/ teleport or uplink a TV Channel or uplink facility by a News Agency should be a company registered in India under the Companies Act, 1956.

1. PERMISSION FOR SETTING UP OF UPLINKING HUB/ TELEPORTS.

1.1 Eligibility Criteria.

1.1.1 In the applicant company, the foreign equity holding including NRI/OCB/PIO should not exceed 49%.

1.1.2 The Company should have a minimum Net Worth as prescribed below:

| Item | Required Net Worth |
|---|---|
| Teleport for single channel capacity | Rs. 1.00 Crore |
| Teleport for 6 channel capacity | Rs. 1.50 Crore |
| Teleport for 10 channel capacity | Rs. 2.50 Crore |
| Teleport for 15 channel capacity | Rs. 3.00 Crore |

1.2 Period of Permission.

1.2.1 Permission shall be granted for a period of 10 years.

1.3 Fee.

1.3.1 The applicant will pay an amount of Rs. Ten thousands as processing fee.

1.3.2 After being held eligible, the applicant company shall pay a permission fee at the rate of Rs. Five Lakhs per teleport.

1.4 Special Conditions/ Obligations.

1.4.1 The company shall uplink only those TV channels which are specifically approved or permitted by the Ministry of I&B for uplinking from India.

1.4.2 The company shall stop uplinking TV channels whenever permission/approval to such a channel is withdrawn by the Ministry of I&B.

1.4.3 The applicant company shall abide by the general terms and conditions laid down in Para 5 below.

2. PERMISSION FOR UPLINKING A NON-NEWS & CURRENT AFFAIRS TV CHANNEL. [Note: For the purpose of these guidelines, a non-News & Current Affairs TV channel means a channel which does not have any element of news & current Affairs in its programme content.]

2.1 Eligibility Criteria.

2.1.1 The applicant company, irrespective of its ownership, equity structure or management control, would be eligible to seek permission.

2.1.2 The Company should have a minimum Net Worth as prescribed below:

| Item | Required Net Worth |
|---|---|
| Single TV channel | Rs. 1.50 Crore |
| For each additional TV channel | Rs. 1.00 Crore |

2.2 Period of Permission.

2.2.1 Permission shall be granted for a period of 10 years.

2.3 Fee.

2.3.1 The applicant will pay an amount of Rs. Ten thousands as processing fee.

2.3.2 After being held eligible, the applicant company shall pay a permission fee at the rate of Rs. Five Lakhs per channel.

2.4 Special Conditions/ Obligations.

2.4.1 The applicant company shall obtain registration for each channel, in accordance with the procedure laid down under the Downlinking Guidelines notified by the Ministry of Information & Broadcasting separately.

2.4.2 The applicant company permitted to uplink shall operationalize the channel within a period of one year from the date the permission is granted by the Ministry of I&B; failing which the permission is liable to be withdrawn, after affording an opportunity of being heard.

2.4.3 The sports channels/sports rights management companies having TV broadcasting rights shall with immediate effect share their feed with Prasar Bharati for national and international sporting events of national importance, held in India or aboard, for terrestrial transmission and DTH broadcasting (free-to-air) under the following conditions:

i) The events of national importance shall be determined by the Ministry of Information & Broadcasting in consultation with Ministry of Sports & Youth Affairs, Prasar Bharati and the concerned sports channels/sports rights management companies. In case of cricket events, these shall include all matches featuring India and the semi-finals and finals of international competitions.

ii) The above conditions shall apply to all future events including those covered by existing contracts of broadcasting rights. However, in the case of cricket events whose broadcasting rights have been obtained by sports channels/right management companies prior to

the issue of the notification in the matter the rights holders will be obliged to share the feed for all matches featuring India and finals of international competitions.

iii) Prasar Bharati shall transmit the feed, free to air, on its terrestrial channel and carried through the terrestrial network and/or the satellite/DTH mode.

iv) The marketing of the events' rights (terrestrial as well as satellite/DTH) will be decided through mutual negotiations between Prasar Bharati and the rights holder. The marketing rights should go to the party which offers to maximize the revenue.

v) Revenue sharing formula of 75:25 in favour of rights holders without any minimum guarantee/opportunity cost, should be applied.

In the event of any dispute, the matter shall be referred to an arbitrator to be appointed by Secretary, Ministry of Law and Justice out of the approved panel of arbitrators.

2.4.4 The applicant company shall abide by the general terms and conditions laid down in Para 5 below.

3. PERMISSION FOR UPLINKING A NEWS & CURRENT AFFAIRS TV CHANNEL. [Note: For the purpose of these guidelines, a News & Current Affairs TV channel means a channel which has any element of news & current Affairs in its programme content.]

3.1 Eligibility Criteria.

3.1.1 Foreign Equity holding including FDI/FII/NRI investments should not exceed 26% of the Paid Up equity of the applicant company. However, the entity making portfolio investment in the form of FII/NRIs deposits shall not be "persons acting in concert" with FDI investors, as defined in Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. The Company, permitted to uplink the channel shall certify the continued compliance of this requirement through its Company Secretary, at the end of each financial year.

3.1.2 Permission will be granted only in cases where equity held by the largest Indian shareholder is at least 51% of the total equity, excluding the equity held by Public Sector Banks and Public Financial Institutions as defined in Section 4A of the Companies Act, 1956, in the New Entity. The term largest Indian shareholder, used in this clause, will include any or a combination of the following:

(1) In the case of an individual shareholder,

(a) The individual shareholder.

(b) A relative of the shareholder within the meaning of Section 6 of the Companies Act, 1956.

(c) A company/ group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.

(2) In the case of an Indian company,

(a) The Indian company

(b) A group of Indian companies under the same management and ownership control.

For the purpose of this Clause, "Indian company" shall be a company, which must have a resident Indian or a relative as defined under Section 6 of the Companies Act, 1956/ HUF, either singly or in combination holding at least 51% of the shares. Provided that in case of a combination of all or any of the entities mentioned in Sub-Clause (1) and (2) above, each of the parties shall have entered into a legally binding agreement to act as a single unit in managing the matters of the applicant company.

3.1.3 While calculating foreign equity of the applicant company, the foreign holding component, if any, in the equity of the Indian shareholder companies of the applicant company will be duly reckoned on pro-rata basis, so as to arrive at the total foreign holding in the applicant company. However, the indirect FII equity in a company as on 31st March of the year would be taken for the purposes of pro-rata reckoning of foreign holdings.

3.1.4 The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.

3.1.5 It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.

3.1.6 The applicant shall be required to intimate the names and details of all persons, not being resident Indians, who are proposed to be inducted in the Board of Directors of the company.

3.1.7 The company shall be liable to intimate the names and details of any foreigners/ NRIs to be employed/ engaged in the company either as Consultants (or in any other capacity) for more than 60 days in a year, or, as regular employees.

3.1.8 At least 3/4th of the Directors on the Board of Directors of the company and all key Executives and Editorial staff shall be

resident Indians.

3.1.9 The representation on the Board of Directors of the company shall as far as possible be proportionate to the shareholding.

3.1.10 All appointments of key personnel (executive and editorial) shall be made by the applicant company without any reference on from any other company, Indian or foreign.

3.1.11 The applicant company must have complete management control, operational independence and control over its resources and assets and must have adequate financial strength for running a news and current affairs TV channel.

3.1.12 CEO of the applicant company, known by any designation, and/ or Head of the channel, shall be a resident Indian.

3.1.13 The Company should have a minimum Net Worth as prescribed below:

| Item | Required Net Worth |
|---|---|
| Single TV channel | Rs. 3.00 Crore |

3.2 Period of Permission.

3.2.1 Permission shall be granted for a period of 10 years.

3.3 Fee.

3.3.1 The applicant will pay an amount of Rs. Ten thousands as processing fee.

3.3.2 After being held eligible, the applicant company shall pay a permission fee at the rate of Rs. Five Lakhs per channel.

3.4 Special Conditions/ Obligations.

3.4.1 Permission for usage of facilities/infrastructure for live news/footage collection and transmission, irrespective of the technology used, will be given to only those channels which are uplinked from India. To ensure immediate compliance of this policy in respect of permissions/licences given/to be given for utilization of VSAT/RTTS/Satellite Video Phone and similar other infrastructure, which lends itself for use in uplinking/point to point transfer of content for broadcast purposes, separate guidelines will be issued by the Ministry of Communications & Information Technology.

3.4.2 The channel/company will ensure that its news and current affairs content provider(s), if any, are accredited with the Press Information Bureau. Such accredited content provider(s) only can use equipment/platform for collection/transmission of news/footage.

3.4.3 The company/channel should ensure that it uses equipment, which is duly authorized and permitted by the competent authority, or its content provider(s), if any, use equipment duly authorized by the competent authority,

3.4.4 It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.

3.4.5 The company/channel will be liable to intimate to the Ministry of Information & Broadcasting the details of any foreigners/NRIs employed/engaged by it for a period exceeding 60(sixty) days.

3.4.6 The applicant company shall abide by the general terms and conditions laid down in Para 5 below as well as Paras 2.4.1 to 2.4.3 above.

4. PERMISSION FOR UPLINKING BY INDIAN NEWS AGENCY.

4.1 Eligibility criteria.

4.1.1 The applicant company should be accredited by Press Information Bureau (PIB).

4.1.2 The applicant company should be 100% owned by Indian, with Indian Management Control.

4.2. Period of Permission.

4.2.1 Period of permission shall be as per WPC license.

4.3 Special Conditions/ Obligations.

4.3.1 The company shall use uplinking for news-gathering and its further distribution to other news agencies/broadcasters only.

4.3.2 The company shall not uplink TV programmes/channels for direct reception by public.

4.3.3 The applicant company shall abide by the general terms and conditions laid down in Para 5 below.

5. GENERAL TERMS & CONDITIONS.

5.1 The company can uplink either in C or Ku Band. Uplinking in C Band would be permitted both to Indian as well as foreign satellites. However, proposals envisaging use of Indian satellites will be accorded preferential treatment. On the other hand, uplinking in Ku Band would be permitted through Indian satellite only, subject to the condition that this permission is not used to run/ operate DTH service without proper license, to which separate guidelines apply. Satellite to be used should have been coordinated with Insat System.

5.2 The company shall comply with the Programme & Advertising Codes, as laid down in the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under.

5.3 The company shall keep record of the content uplinked for a period of 90 days and produce the same before any agency of the Government, as and when required.

5.4 The company shall furnish such information, as may be required by the Ministry of Information & Broadcasting, from time to time.

5.5 The company/channel shall provide for the necessary monitoring facility, at its own cost, for monitoring of programmes or content by the representatives of the Ministry of Information & Broadcasting or any other Government agency as and when so required.

5.6 The company shall permit the Government agencies to inspect the facilities as and when required.

5.7 The company shall comply with the terms and conditions of Wireless Operational Licence to be issued by the WPC Wing, Ministry of Communications & IT.

5.8 The Company shall ensure its continued eligibility as applicable through out the period of permission and adhere to all the terms and conditions of the permission, failing which the company shall be liable for penalty as specified in Para 8 below.

5.9 The Government of India, Ministry of Information & Broadcasting shall have the right to suspend the permission of the company for a specified period in public interest or in the interest of national security to prevent its misuse. The company shall immediately comply with any directives issued in this regard.

5.10 It will be obligatory on the part of the company to take prior permission from the Ministry of Information & Broadcasting before effecting any change in the CEO/ Board of Directors.

6. PERMISSION FOR USE OF SNG/DSNG EQUIPMENTS IN C BAND AND KU BAND.

6.1 The use of SNG/DSNG would be permitted to News and Current Affairs channels uplinked from India for live news/footage collection and point-to-point transmission.

6.2 PIB accredited content provider(s) if any, to the permitted News and Current Affairs channel(s) can use SNG/DSNG for collection/transmission of news/footage.

6.3 Entertainment channels who are uplinking from their own teleport, can use SNG/DSNG for their approved channels, for transfer of video feeds to the permitted teleport.

6.4 All Foreign channels, permitted entertainment channels uplinked from India and companies/individuals not covered in 6.1, 6.2 and 6.3 as above will be required to seek temporary uplinking permission for using SNG/DSNG for any live coverage/footage collection and transmission on case to case basis.

6.5 Only permitted teleport operators and Doordarshan may offer/hire out SNG/DSNG equipments/infrastructures to other broadcasters who are permitted to uplink from India.

6.6 The uplinking should be carried in encrypted mode, so as to be receivable only in closed user group. The signal should only be down linked at the permitted teleport of the licensee and uplinked for broadcasting through permitted satellite through that teleport only.

6.7 Each company/channel desiring to use SNG/DSNG would have to apply to Ministry of I&B and get permission before doing the same.

6.8 Uplinking from SNG/DSNG should be in SCPC mode only (only single feed can be uplinked from the SNG/DSNG at a time).

6.9 The channel would also give an undertaking that the feed collected through SNG/DSNG shall conform to Programme and Advertisement Codes.

6.10 The use of SNG/DSNG would be permitted only in those areas/regions/states which are not specifically prohibited by MHA.

6.11 The company would submit the purchase documents of SNG/DSNG terminals and inform Ministry of I&B about placement of these terminals at the various locations.

6.12 Period of Permission:

(a) For teleport owners − co-terminus with teleport licence.

(b) For permitted News and Current Affairs channels − for the period of the Channel permission.

(c) For content providers to permitted channels - for the period of the channel permission.

(d) For other broadcasters having temporary uplinking permission − for periods as specified in the temporary uplinking permission.

6.13 The company permitted to use SNG/DSNG shall apply to WPC for frequency authorization of WPC. It should be renewed yearly in time and a copy should be submitted to this Ministry by the company every year.

6.14 The permitted company shall maintain a daily record of the location and the events which have been covered and uplinked by SNG/DSNG terminals and down linked at their main satellite earth station and produce the same before the licensing authority or its authorized representative, which will include officers of Ministry of Home Affairs and Ministry of I&B, as and when required.

6.15 The permitted company shall not enter defence installations.

6.16 The equipment should not be taken in the areas cordoned off from security point of view.

6.17 The company/channel desiring to use SNG/DSNG would give an undertaking that it would be used for live newsgathering and footage collection for captive use only.

6.18 Violations of any of the aforementioned terms and conditions would lead to revocation/cancellation of the permission to use the SNG/DSNG.

6.19 The permitting authority may modify the conditions laid down or incorporate new conditions, as and when considered necessary.

6.20 SNG/DSNG in Ku Band will not be used for DTH operation, directly or indirectly. Any such use would lead to the termination of licence/permission.

6.21 Uplinking Dish used for SNG/DSNG operation in Ku Band shall not exceed 2 meters.

7. PERMISSION FOR TEMPORARY UPLINKING.

7.1 The use of all equipment/platforms for collection of footage/news by channels uplinked from outside for specific programme(s)/event(s) of temporary duration will be entertained on recommendation from the PIB and permitted on a case to case basis, in consultation with the Ministry of Home Affairs and other Ministries/Departments concerned.

7.2 Foreign news channels/ agencies may be granted permission up to one year at a time for temporary uplinking from time to time through a pre-designated teleport, subject to the following conditions:

(a) The applicant is accredited with the Press Information Bureau, Government of India.

(b) The applicant undertakes to conform to the Programme and Advertisement Codes.

(c) The applicant has a binding agreement with the relevant teleport for the period of permission.

(d) The applicant pays a processing fee of Rs. 10,000/- and temporary permission fee of Rs. 50,000/- per year.

The news/footage so uplinked shall be primarily for the usage abroad by the foreign news agency/ channel and shall not be broadcast in India without downlinking permission and registration of the channel.

8. OFFENCES AND PENALTIES.

8.1 In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 5.9 above, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws.

8.2 Subject to the provisions contained in para 8.1 of these guidelines, in the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:

8.2.1 In the event of first violation, suspension of the permission of the company and prohibition of broadcast/ transmission up to a period of 30 days.

8.2.2 In the event of second violation, suspension of the permission of the company and prohibition of broadcast up to a period of 90 days.

8.2.3 In the event of third violation, revocation of the permission of the company and prohibition of broadcast up to the remaining

period of permission.

8.2.4 In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition of broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.

8.3 In the event of suspension of permission as mention in Para 5.9 or 8.2 above, the permission holder shall continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.

8.4 In the event of revocation of permission, the fees shall be forfeited.

8.5 All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

9. PROCEDURE FOR OBTAINING PERMISSION.

9.1 The applicant company can apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed format "Form 1" along with all requisite documents including a demand draft for an amount equal to processing fee wherever prescribed, payable at par at New Delhi, in favour of the Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi.

9.2 On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).

9.3 As soon as these clearances are received, the applicant would be asked to furnish a demand draft for an amount equal to the processing fee, wherever prescribed, payable at New Delhi, in favour of Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi. Further, the applicant company in respect of Para 1, 2 or 3 above would be required to sign an agreement titled as "Grant of Permission Agreement", in the format "Form 2", which is being prescribed separately..

9.4 Thereafter, the Company would be issued a formal permission to enable it to obtain requisite license/ clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by a Indian news agency.

9.5 The applicant will pay the licence fee and royalty, as prescribed by WPC Wing from time to time, annually, for the total amount of spectrum assigned to Hub/Teleport station, as per norms & rules of the WPC Wing. Besides, the Hub/Teleport station owner will inform WPC Wing the full technical and operations details of TV channels proposed to be uplinked through his/her Hub/Teleport in prescribed format. (This clause is applicable for teleports/ uplinking by a Indian News Agency.)